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**OFFICE OF PETITIONS**

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SUITE 204  
20 W. PARK AVE.  
LONG BEACH NY 11561

In re Application of	:	
Joseph E. Porcelli	:	
Application No. 09/356,771	:	DECISION ON RENEWED PETITION
Filed: July 7 16, 1999	:	PURSUANT TO
Attorney Docket Number: 1310-2	:	37 C.F.R. § 1.137(b)
Title: CAR AND TRUCK BEVERAGE	:	
HOLDER	:	

This is a decision on the renewed petition pursuant to 37 C.F.R. § 1.137(b), filed on July 28, 2008, to revive the above-identified application. It is noted that this petition contains a certificate of mailing dated July 24, 2008.

This renewed petition is **GRANTED**.

This application became abandoned for failure to reply within the meaning of 37 C.F.R. § 1.113 in a timely manner to the final Office action mailed March 4, 2004, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R. § 1.136(a) were obtained, and no further responses were received. Accordingly, the above-identified application became abandoned on June 5, 2004. A notice of abandonment was mailed on October 20, 2004.

On September 7, 2004, a continuation application was filed, claiming the benefit of the present application. Petitioner further included a three-month extension of time, a preliminary amendment, and remarks. This continuation application was assigned a serial number of 10/935,503.

Decision on Renewed Petition pursuant to 37 C.F.R. § 1.137(b)

A petition pursuant to 37 C.F.R. § 1.137(a), to revive the above-identified application, was filed on March 8, 2007, and was dismissed via the mailing of a decision on August 24, 2007 for failure to establish that the entire period of delay was unavoidable.

An original petition pursuant to 37 C.F.R. § 1.137(b) was filed on October 25, 2007, and was dismissed via the mailing of a decision on March 24, 2008.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
- (4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

A Request for Continued Examination, along with the associated fee, was submitted on March 8, 2007. The fee that is associated with the filing of a petition pursuant to 37 C.F.R. § 1.137(b) was received on October 25, 2007.

The decision on the original petition pursuant to 37 C.F.R. § 1.137(b) indicated that the first three requirements of Rule 1.137(b) had been met, and that the fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.

With this renewed petition pursuant to 37 C.F.R. § 1.137(b), Petitioner has included a statement of facts that establishes that the entire period of delay was unintentional. Petitioner has further included a two-month extension of time so as to make timely this submission.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of

this decision, so that the RCE that was submitted on March 8, 2007 can be processed. The amendment that was submitted on October 25, 2007 will serve as the required response.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanowski at (571) 272-3225.<sup>1</sup> All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.



Anthony Knight

Supervisor

Office of Petitions

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<sup>1</sup> Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).